IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 871 OF 2004

IN

SUM. SUIT NO. 2805 OF 2004

Reuters India Pvt. Ltd., . .. Plaintiff.

vs.

Genuine Stock Brokers Pvt.Ltd., .. Defendants.

Mr. Vandana Gupta a/w Pandmaja Dholakia
i/by Dhiolakia Gupte & Co.
for plaintiff.

Mr. Harinder Toor a/w Ms. N.I. Bakali
for defendants.

CORAM : S.U. KAMDAR, J.

DATE : 4th October, 2005.

P.C.:

. The present suit is filed for the recovery of sum of Rs. 2,78,444.09. The learned counsel appearing for the plaintiff however restricts the claim to a sum of Rs. 1,73,332.03 by reducing the claim towards the notice period of six months. On the statement of the learned counsel for the plaintiff the claim is accordingly restricted to Rs.

1,73,332.03. The writ of summons are served on the defendants and Vakalatnama has been filed. There is no reply to the summons for judgment. In that view of the matter the defendant has not sought any leave to defend in the present case. However, the learned counsel appearing for the defendant has raised the following defences without filing an affidavit in reply. The first contention raised by the learned counsel for the defendants is that this Court has no territorial jurisdiction to try and entertain the present suit. However, two facts which are admitted are that the agreement after being signed was forwarded to the defendants at Ahmedabad and after signing the same the defendants have returned the same to Bombay. In my opinion, the agreement is then finally executed at Bombay. Secondly it is admitted that the payment has been made to the plaintiff in Bombay. The fact that payment is made at Bombay indicates that part of the cause of action has arose in Mumbai. In that view of the matter, this Court will have territorial jurisdiction as the material part of the cause of action having arisen within the territorial jurisdiction of this Court. The next contention raised by the learned counsel for the defendant is that the suit claim is barred by limitation. Even in respect of the aforesaid contention I find no merit as admittedly for the first time on 25.8.2001 which is letter at Exhibit B to the plaint the services was discontinued and the

suit is filed within the period of three years from 25.8.2001 and, therefore, the suit is within time. The last contention advanced by the learned counsel for the defendants is that the suit is on account. He has drawn my attention to page no. 47 indicating that the amount is claimed on the basis of each of the invoice at the foot of account. The suit claim is based on each of the invoice as mentioned on page no. 47. In that view of the matter, I do not accept the contention that the suit is on account. The last contention raised by the learned counsel is that the contract was only for a period of one year from the date of execution of the contract i.e. on 6.9.1999. However, the letter dated 17.9.2001 itself indicates that by mutual agreement between the parties to the said contract has continued the same and the defendants were availing of the services of the plaintiff even after expiry of one year. In that view of the matter, I do not find substance in any of the contention raised by the defendants. The suit is, therefore, decreed for a sum of Rs. 1,73,332.03 with further interest at the rate of 18% per annum from the date of the suit till payment and/or realisation. The summons for judgment is made absolute. No order as to costs.